

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

**IN RE: DONNY G. GILLASPIE
ARKANSAS BAR No. 61010
CPC DOCKET No. 2007-127**

FILED

MAR 21 2008

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by referral from the Arkansas Supreme Court on September 27, 2007. The information related to the representation of Jayson Wayne Carroll by Donny G. Gillaspie in 2007.

Donny G. Gillaspie, Attorney at Law, El Dorado, Arkansas, represented Jayson Wayne Carroll in a criminal case in Union County Circuit Court, Case No. CR2006-55-5, in which Mr. Carroll was convicted of escape. On January 10, 2007, Mr. Carroll was sentenced to a term of twelve years in the Arkansas Department of Correction. Mr. Gillaspie filed a timely notice of appeal from the judgment on January 23, 2007. Pursuant to Rule 5(a) of the Arkansas Supreme Court Rules of Appellate Procedure—Civil, the record must be filed with the clerk of the Arkansas Supreme Court Clerk within ninety (90) days of the filing of the notice of appeal, unless the time is extended by order of the circuit court. The record was due to be filed on or before April 23, 2007. No timely requests for extensions of time to file the record were filed. Mr. Gillaspie asserts that a Motion for Extension of Time to File the Record was considered at a hearing in Union County Circuit Court on April 12, 2007. At that hearing the Honorable Hamilton Singleton announced from the bench that the Motion was granted. Judge Singleton made a docket entry reflecting the announced decision and then directed the Prosecuting

Attorney to prepare an Order reflecting the announcement. Mr. Gillaspie admits that the Order was not entered until after the April 23, 2007, deadline.

On May 23, 2007, Mr. Gillaspie filed an untimely Motion for Extension of Time and his untimely motion was granted by the Columbia County Circuit Court to August 1, 2007. On July 27, 2007, Mr. Gillaspie filed a second untimely Motion for Extension of Time and the second motion was granted by the Columbia County Circuit Court extending the time to file the record to August 10, 2007.

Mr. Gillaspie stated that he was diagnosed with cancer in July, 2007, and underwent surgery on August 1. Following his surgery, Mr. Gillaspie tendered the record to the Arkansas Supreme Court Clerk on August 14, 2007. The Clerk refused to file the record as the record was not filed prior to April 23, 2007, and no timely extensions were granted prior to April 23, 2007.

Mr. Gillaspie thereafter filed a Motion for Rule on the Clerk on September 10, 2007. On September 27, 2007, the Arkansas Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Office of Professional Conduct.

Mr. Gillaspie stated that he acted with reasonable diligence and promptness in the matter, that he filed for an extension of time and was granted the extension. Mr. Gillaspie stated that the failure to have an Order filed with the Union County Circuit Court Clerk prior to April 23 should not be attributed to him as the duty to file the Order belonged to the Prosecuting Attorney's office.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Donny G. Gillaspie's conduct violated Rule 1.3 when he failed to perfect an appeal on behalf of his client, Jayson Wayne Carroll, following the filing of the Notice of Appeal in the case of Jayson Wayne Carroll v. State of Arkansas, Union County Circuit Court Case No. CR-2006-55-5. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Donny G. Gillaspie's conduct violated Rule 8.4(d) when his failure to perfect an appeal on behalf of his client, Jayson Wayne Carroll, resulted in a delay in the orderly and timely resolution of appellate proceedings and when his failure to perfect an appeal on behalf of his client, Jayson Wayne Carroll, required the Court to expend additional time and effort which would not have been necessary otherwise. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B that DONNY G. GILLASPIE, Arkansas Bar No. 61010, be, and hereby is, REPRIMANDED; fined the sum of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00); and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. In reaching its decision, the Panel took into consideration Mr. Gillaspie's prior disciplinary history pursuant to Section 19.L of the Procedures. The fine and costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the

Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: Valerie Z Kelly
Valerie Kelly, Chair, Panel B

Date: February 27, 2008